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Re: *Daily News, LP v. Microsoft Corporation*, Case No. 1:24-cv-03285-SHS-OTW

Counsel,

We write to remind you of OpenAI OpCo, LLC's ("OpenAI") data retention policies, as we have received inquiries about our policies from parties in other cases. Given these requests, and to ensure discussions about discovery are efficient and consistent across these cases, we want all parties to be aware of our policies.

OpenAI's data retention policies reflect compliance with data protection laws and the need to respect the privacy of ChatGPT users by, for example, giving users the ability to indicate whether they want certain types of information to be deleted or otherwise not retained. Additionally, OpenAI's data retention policies reflect the reality that the operation of ChatGPT generates an enormous and rapidly growing volume of user conversations daily, the indefinite storage of which would require costly infrastructure and continuous management. Given these challenges, it would be inappropriate, overly burdensome, not proportional, and not feasible to place all ChatGPT user conversations on indefinite retention.

Under OpenAI's retention policies, OpenAI retains ChatGPT user conversations unless users have taken affirmative steps to delete a chat, delete and/or disable chat history, delete their account, or use a feature called Temporary Chat. *See, e.g.,* <https://help.openai.com/en/articles/8914046-temporary-chat-faq>. In those circumstances, consistent with that user preference, the prompts and outputs associated with a user account are retained for 30 days or only as needed for specific security or legal reasons, for example, to comply with legal obligations. *See e.g.,* <https://help.openai.com/en/articles/8809935-how-chat-retention-works-in-chatgpt>. OpenAI's current chat retention policies and privacy policies (*see, e.g.,* <https://openai.com/policies/row-privacy-policy/>), as well as any future updates, are and will be disclosed on OpenAI's website, and we refer you to OpenAI's website to view OpenAI's current policies.

Enterprise versions of ChatGPT and our API Platform have separate data retention policies depending on the customer. *See, e.g.,* <https://openai.com/enterprise-privacy>. For users of

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ChatGPT Enterprise, the enterprise customer's workspace admin controls how long data is retained. For users of OpenAI's API Platform, OpenAI retains business data for up to 30 days, but certain eligible customers can request zero-day retention. *See, e.g.,* <https://platform.openai.com/docs/models/how-we-use-your-data>.

Consistent with its obligations under Rules 26 and 37 of the Federal Rules of Civil Procedure, OpenAI has taken and will continue to take reasonable measures to preserve all potentially relevant evidence from within the relevant time period. OpenAI does not consider retaining user conversations in a manner different from its general practices to be required by the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 26(b)(2)(B) ("A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost.").

Please note that by agreeing to retain any information in whole or in part, OpenAI is not representing that such information exists, or, if it does, that it is relevant or will be produced.

Sincerely,



Carolyn M. Homer
Of Counsel

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